

BERMAN, 151

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

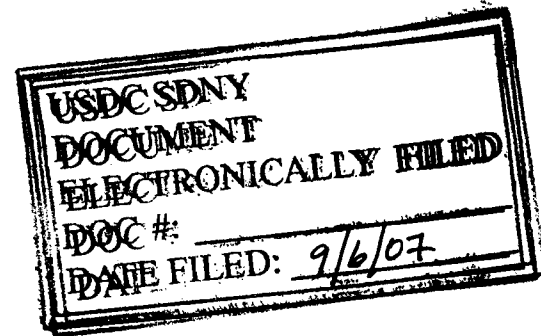
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LOUIS VUITTON MALLETIER,

Plaintiff,

v.

BURLINGTON COAT FACTORY WAREHOUSE  
CORP., FOUR SEASONS HANDBAGS COMPANY,  
INDUSTECH INTERNATIONAL INC.,  
and JOHN DOES 1-10,

Defendants.  
-----X



04 Civ. 2644 (RMB)(FM)

### **PERMANENT INJUNCTION AND FINAL JUDGMENT ON CONSENT**

WHEREAS, Louis Vuitton is the owner of numerous registered and common law trademarks as found in the chart attached hereto as Exhibit A, including Trademark Registration Nos. 297,594, 1,770,131, 2,399,161, and 1,875,198 for the TOILE MONOGRAM Trademarks; Trademark Registration Nos. 1,990,760 and 1,045,932 for the LOUIS VUITTON Trademarks; Trademark Registration No. 2,181,753 for the Flower in a Circle Design Trademark; Trademark Registration No. 2,177,828 for the Flower Design Trademark; Trademark Registration No. 1,841,850 for the Floral Décor Design Trademark; Trademark Registration No. 2,773,107 for the Flower in a Rhombus Design Trademark; Trademark Registration No. 1,643,625 for the “Sac Noe” Trademark; Trademark Registration No. 1,653,663 for the “Sac Keepall” Trademark; Trademark Registration No. 1,615,681 for the LOUIS VUITTON MALLETIER A PARIS Trademark; Trademark Registration No. 2,346,373 for the LOUIS VUITTON PARIS Trademark; Trademark Registration No. 1,650,162 for the “S-Lock” Trademark; the “Monogram Multicolore Trademark”, a modified version of the TOILE

MONOGRAM Trademarks, printed in 33 bright colors (Murakami colors) on a white or black background, all hereinafter referred to as the “Louis Vuitton Trademarks”; and Copyright Registration No. VA 1-250-120 for the Multicolor Monogram – White Print; Supplementary Registration No. VA 1-365-645 for the Multicolor Monogram – White Print; Copyright Registration No. VA 1-250-121 for the Multicolor Monogram – Black Print; Supplementary Registration No. VA 1-365-644 for the Multicolor Monogram – Black Print, hereinafter referred to as the “Louis Vuitton Copyrights,” with the Louis Vuitton Trademarks and the Louis Vuitton Copyrights sometimes hereinafter collectively referred to as the “Louis Vuitton Intellectual Properties;” copies of these registrations are annexed hereto as Exhibit B; and

WHEREAS, Louis Vuitton contend that Defendant Burlington Coat Factory Warehouse Corp. (“BCF” or “Defendant”) has distributed, offered for sale and sold certain goods bearing unauthorized reproductions, counterfeits, copies and/or colorable imitations of the Louis Vuitton Intellectual Properties (the “Challenged Goods”). Photographs of the Challenged Goods are annexed as Exhibit C; and

WHEREAS, on April 7, 2004, Louis Vuitton instituted an action in the United States District Court for the Southern District of New York, entitled *Louis Vuitton Malletier v. Burlington Coat Factory Warehouse Corp. et. al.*, Civil Action No. 04 Civ. 2644 (RMB) (FM) seeking injunctive relief and damages for trademark counterfeiting and infringement, false designation of origin, trademark dilution, unfair competition, injury to business reputation and false and deceptive business practices, in violation of the laws of the United States and the State of New York, arising out of BCF’s distribution, offer for sale and sale of some of the Challenged Goods with the complaint

amended by the filing of amended and supplemental complaint and jury demand on July 27, 2007, asserting an additional claim for copyright infringement; and

WHEREAS, BCF has filed an Answer to the Amended and Supplemental Complaint in the Action denying any wrongdoing or liability, asserting affirmative defenses, and asserting counterclaims with respect to certain of the Louis Vuitton Trademarks; and

WHEREAS, the parties each desire to settle the controversies between them without further expense or the inconvenience of further litigation and without any admission of liability by either side;

NOW THIS CAUSE came before the Court on the application of Louis Vuitton for the entry of a Permanent Injunction and Final Judgment on Consent in the form set forth herein. As the Court notes from the last page of this document, Defendant BCF has consented to the entry of this Permanent Injunction and Final Judgment on Consent. The Court, having considered all pleadings and other documents filed in this action, hereby directs the entry of this Permanent Injunction and Final Judgment on Consent on Plaintiff's claims against Defendant BCF.

The Court, being otherwise fully advised in the premises, does hereby

**ORDER, ADJUDGE and DECREE** as follows:

1) This Court has jurisdiction over the subject matter of this action by virtue of 15 U.S.C. §1121, 28 U.S.C. §1331 and 28 U.S.C. §1338 because this action alleges claims which arise under the trademark laws of the United States, 15 U.S.C. §1051 *et seq.* and particularly 15 U.S.C. §§1114, 1116, 1117 and 1125. This Court has jurisdiction over BCF.

2) Plaintiff is engaged in the manufacture, sale and distribution in interstate and foreign commerce of prestigious high-quality, luxury merchandise. In this action, Plaintiff has alleged that BCF advertised, marketed, promoted, distributed, sold and offered for sale products bearing counterfeits and/or infringements of certain of the Louis Vuitton Intellectual Properties.

3) Defendant acknowledges that Louis Vuitton is the exclusive owner of the Louis Vuitton Intellectual Properties and that said marks and copyrights are valid.

4) Without any admission of wrongdoing by Defendant or any evidentiary findings by the Court, the Court <sup>on consent</sup> hereby permanently enjoins and restrains RMB BCF, its employees, agents, servants, successors and assigns, and all those in active concert or participation with any of them who receive actual notice of this judgment by personal service or otherwise, from:

A. Directly or indirectly manufacturing, importing, exporting, promoting, advertising, marketing, distributing, displaying, selling, or offering to sell merchandise identified as the Challenged Goods as shown in Exhibit C hereto, or any other product which is substantially identical thereto;

B. reproducing, copying, infringing, or counterfeiting the Louis Vuitton Intellectual Properties in connection with manufacturing, promoting, advertising, distributing, displaying, selling or offering to sell any unauthorized goods or unauthorized services;

C. using any logo, trade name, or trademark which may be calculated to falsely represent that the services or products of Defendant are sponsored by, authorized by, endorsed by, or in any way associated with Louis Vuitton;

D. causing the dilution, blurring or tarnishment of the Louis Vuitton Trademarks; and

E. falsely representing itself as being connected with Louis Vuitton, or sponsored by or associated with Louis Vuitton, or engaging in any act which is likely to falsely cause the trade, retailers and/or members of the public to erroneously believe that Defendant and/or its products are in any way endorsed by, approved of, and or associated with Louis Vuitton;

F. using any reproduction, infringement, counterfeit, copy, or colorable imitation of the Louis Vuitton Intellectual Properties in connection with manufacturing, promoting, advertising, distributing, displaying, selling, or offering to sell any unauthorized goods or services, including without limitation, items bearing a reproduction, infringement, counterfeit, copy, or colorable imitation of the Louis Vuitton Intellectual Properties;

G. disposing, destroying, altering, moving, removing, concealing, tampering with or in any manner secreting any business records of any kinds, including invoices, correspondence, books of account, receipts or other documentation relating or referring in any manner to the manufacture, promotion, marketing, advertisement, receipt, acquisition, importation, distribution, purchase, display, sale or offer for sale of any merchandise bearing a reproduction, infringement, counterfeit, copy, or colorable imitation of the Louis Vuitton Intellectual Properties;

H. possessing, receiving, manufacturing, assembling, distributing, displaying, advertising, marketing, promoting, returning, selling, offering for sale or otherwise disposing of any products, labels, tags, signs, prints, packages, wrappers, receptacles, advertisements, or other items bearing a reproduction, infringement, counterfeit, copy, or colorable imitation of the Louis Vuitton Intellectual Properties, or disposing of any means

of producing these items; and

I. knowingly instructing, aiding or abetting any other person or business entity in engaging in any of the activities referred to in subparagraphs A and H above.

5) In the event judicial relief or enforcement is sought as a result of any alleged violation or breach of this Permanent Injunction and Final Judgment on Consent, the prevailing party shall be entitled to recover from the opposing party in such suit or proceeding the prevailing party's costs and expenses, including reasonable attorneys' fees.

6) In the event Plaintiff seeks enforcement of any provision of this Permanent Injunction and Final Judgment on Consent, Plaintiff shall notify Defendant by serving copies of Plaintiff's enforcement application as follows:

As to Burlington Coat Factory

Stacy Haigney, Esq.  
Burlington Coat Factory Warehouse Corporation  
1830 Route 130 N.  
Burlington, NJ 08016-3020

7) The Court reserves and retains jurisdiction of the subject matter of this cause and of the parties hereto for the purpose of enforcing the terms of this Permanent Injunction and Final Judgment on Consent.

SHEPPARD, MULLIN, RICHTER, &  
HAMPTON, LLP

By: 

Theodore C. Max (TM 1742)  
Charles A. LeGrand (CL 5320)  
30 Rockefeller Plaza  
New York, NY 10112  
(212) 332-3800  
Attorneys for Plaintiff  
Louis Vuitton Malletier

DARBY & DARBY P.C.

By: \_\_\_\_\_

Robert S. Weisbein (RW 0080)  
Atul R. Singh (AS 0873)  
7 World Trade Center  
250 Greenwich Street  
New York, NY 10007-0042  
(212) 527-7700  
Attorneys for Defendant  
Burlington Coat Factory Warehouse Corporation

LOUIS VUITTON MALLETIER 

By: \_\_\_\_\_

Its: 

BURLINGTON COAT FACTORY WAREHOUSE  
CORPORATION

By: \_\_\_\_\_

Its: \_\_\_\_\_

New York, New York  
August \_\_, 2007

SO ORDERED:

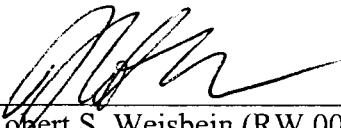
\_\_\_\_\_  
U.S.D.J.

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(212) 527-7700  
Attorneys for Defendant  
Burlington Coat Factory Warehouse Corporation

LOUIS VUITTON MALLETIER

BURLINGTON COAT FACTORY WAREHOUSE  
CORPORATION

By: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

Its: \_\_\_\_\_

New York, New York  
August \_\_, 2007

SO ORDERED:

\_\_\_\_\_  
U.S.D.J.



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Burlington Coat Factory Warehouse Corporation

LOUIS VUITTON MALLETIER

BURLINGTON COAT FACTORY WAREHOUSE  
CORPORATION

By: \_\_\_\_\_  
Its: \_\_\_\_\_

By: *Robert S. Weisbein*  
Its: *President & CEO*

New York, New York  
~~August~~ 2007

SO ORDERED:  
*Richard M. Berman*  
U.S.D.J.  
*9/6/07* *r*